

REMARKS

Applicant respectfully requests reconsideration. Claims 13-29 were previously pending in this application. No claims have been amended. As a result, claims 13-29 are pending for examination. No new matter has been added.

Applicant notes that no period for reply was set in the Office Action (see “Period for Reply” section of Office Action Summary, page 2 of the Office Action). According to the “Period for Reply” section: “If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.” Accordingly, it is Applicant’s understanding that this Response is timely filed.

However, if it is determined that the period for reply was 3 months from the mailing date of October 18, 2006, even though there was no indication in the Office Action of a shortened statutory period for reply, then Applicant hereby requests any necessary extension of time and authorizes the charging of the extension of time fee to Deposit Account No. 23/2825. If the Office determines that an extension of time and fee is necessary, notification of this by telephone to the undersigned is respectfully requested.

Rejection Under 35 U.S.C. § 102

The Examiner rejected claims 13-29 under 35 U.S.C. § 102(e) as being anticipated by Fire et al. (the Timmons and Fire meeting abstract of May 12, 1998) as evidenced by Fire et al. (Nature 391:806, 1998 cited in abstract and of record). Applicant notes that neither reference is a U.S. patent, and therefore the rejection under 35 U.S.C. § 102(e). Applicant’s response assumes that the Examiner meant this to be a rejection under 35 U.S.C. § 102(a).

The Examiner asserted that “Fire et al. disclose a method of down-regulating gene expression in *C. elegans* by allowing the Fire et al. [*sic*, presumably *C. elegans*] to feed on

bacteria that produces a double stranded RNA. The bacteria strain used was BL21/DE3 and had alternative promoters for expression of the dsRNA, the Lac and T7 polymerase promoters.”

Applicant respectfully traverses the rejection. The Fire et al. Nature article, relied upon by the Examiner to evidence a variety of elements of Applicant’s claimed invention that allegedly are described in the Timmons and Fire meeting abstract, in fact does not refer to feeding of dsRNA. In contrast to the assertions of the Examiner, the Fire et al. Nature article does not teach or evidence feeding of bacteria, the use of T7 promoter for expression of RNA, or the use of Lac promoter for expression of RNA. The Nature article only describes microinjection of RNA, which is entirely different than feeding on bacteria expressing dsRNA. In view of the lack or description of the elements of Applicant’s invention as claimed, the Fire et al. Nature article would not be viewed by the person of skill in the art as relevant for evidencing aspects of Applicant’s invention alleged by the Examiner to be taught by the Timmons and Fire meeting abstract. Therefore, the prior art does not anticipate the claimed invention.

Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 13-29 under 35 U.S.C. § 102(e).

CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
Plaetinck, et al, Applicant

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